

REMARKS

Claims 34, 35, 47 and 48 are pending in this application. Claims 34 and 47 are independent. Claims 1-33, 36-46, 49 and 50 have been canceled.

Rejection Under 35 U.S.C. 102(e)

The Office Action rejects claims 34-36 and 47-50 under 35 U.S.C. 102(e) as being anticipated by Kotler et al. U.S. Patent No. 6,504,898 (“Kotler”).

The present invention provides a system and method of irradiating an article from two opposing sides with an amount of radiation between lower and upper limits. In order to ensure sufficient sterilization of the article, the cumulative radiation should be between the lower and upper limits at all positions in the article. When it is determined that the amount of radiation will exceed the upper limit, the intensity of the radiation directed to the article is reduced such that the upper limit is not exceeded.

Independent claims 34 and 47 recite a system and method, respectfully, for irradiating an article “using a pair of radiation sources disposed on opposite sides of the article”. By contrast, Kotler teaches a product irradiator for optimizing dose uniformity in a product, wherein the product is “rotated on a turntable” during irradiation. Therefore, Kotler fails to anticipate independent claims 34 and 47, particularly as amended.

Claim 34 further recites the step of “reducing the intensity of the radiation directed to the article, when it is determined that the cumulative amount of radiation will be above the second limit, so that the reduced amount of radiation directed to the article will be between the first limit

and the second limit". This step involves using a microprocessor to determine the intensity of the radiation to be applied to the article, and then reducing the intensity of the radiation before it is applied to the article if the amount of radiation is above the second limit.

Kotler teaches that the product is irradiated "for a period of time sufficient to achieve a minimum required radiation dose within the product". (Col. 4, lines 8-10). However, Kotler fails to disclose the use of a maximum desirable cumulative radiation dose that represents a predetermined upper limit to the cumulative amount of allowable radiation. Moreover, Kotler does not provide for reducing the intensity of the radiation before it is applied to the product. Kotler clearly does not teach the step of "reducing the intensity of the radiation directed to the article, when it is determined that the cumulative amount of radiation will be above the second limit, so that the reduced amount of cumulative radiation directed to the article will be between the first limit and the second limit. Kotler is only concerned with increasing the intensity of the radiation to achieve a minimum required radiation dose within the product.

Claim 47 recites a system for irradiating an article, including: (1) a pair of radiation sources disposed on opposite sides of the article for irradiating the article; (2) a microprocessor for determining whether the intensity of a cumulative amount of radiation will be between a first limit and a second limit; and (3) a member for reducing the intensity of the cumulative amount of radiation to a value between the first limit and the second limit when the microprocessor determines that the intensity of the radiation of the article will be greater than the second limit. The microprocessor is employed to determine the intensity of the cumulative amount of radiation before it is applied to the article. Then, if the amount of radiation is above the second limit, the member is used to reduce the intensity of the radiation.

As discussed hereinabove with respect to claim 34, Kotler provides a product irradiator for optimizing dose uniformity in a product, wherein the product is irradiated “for a period of time sufficient to achieve a minimum required radiation dose within the product”. (Col. 4, lines 8-10). Kotler fails to disclose the use of a predetermined upper limit to the amount of allowable cumulative radiation applied to the product. Further, Kotler does not provide for reducing the intensity of the radiation before it is applied to the product. Kotler thus does not teach a member for reducing the intensity of the cumulative amount of radiation to a value between the first limit and the second limit when a microprocessor determines that the intensity of the radiation of the article will be greater than the predetermined upper limit. To the contrary, Kotler is only concerned with increasing the intensity of the radiation to achieve a minimum required radiation dose within the product.

In view of the above, Applicants’ respectfully request withdrawal of the rejection under 35 U.S.C. 102(e).

Conclusion

It is believed this amendment now has placed the application in condition for consideration and allowance. If necessary, the Commissioner is hereby authorized in this and concurrent replies to charge payment (or credit any overpayment) to Deposit Account No. 50-0683 of Luce, Forward, Hamilton & Scripps.

Respectfully submitted,

7-5-05
Date



David E. Heisey
Attorney for Applicant(s)
Reg. No. 42,651
c/o LUCE, FORWARD, HAMILTON
& SCRIPPS LLP
600 West Broadway, Suite 2600
San Diego, California 92101
Telephone No.: (619) 233-2984

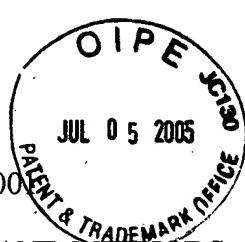
2084568.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Gary K. LODA

Serial No.: 09/964,785



Group Art Unit: 1744

Filed: September 26, 2000

Examiner: JASTRZAB

For: SYSTEM FOR, AND METHODS
OF, IRRADIATING OPPOSITES
SIDES OF ARTICLES WITH
OPTIMAL AMOUNTS OF
CUMULATIVE RADIATION

Confirmation No.: 3304

San Diego, California
July 5, 2005

Mail Stop: RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF EXPRESS MAILING

Dear Sir or Madam:

"Express Mail" mailing label No. EV 643171825 US

Date of Deposit: July 5, 2005

I hereby certify that the enclosed Request for Continued Examination (RCE) Transmittal; Response to Office Action; check in the amount of \$790; and return-receipt postcard are being deposited with the U.S. Postal Service "Express Mail Post Office to the Addressee" service under 37 CFR § 1.10 on the date indicated above and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

July 5, 2005
Date

Theresa Nanzer
Theresa Nanzer